

STATE OF NORTH DAKOTA
BEFORE THE INSURANCE COMMISSIONER

In the Matter of

**Larry M. Atkins,
NPN 651982,
DOB, 7/16/43,**

Respondent.

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CONSENT ORDER

CASE NO. AG-08-216

Insurance Commissioner Adam W. Hamm (hereinafter "Commissioner") has determined as follows:

1. As a result of information obtained by the North Dakota Insurance Department (hereinafter "Department") regarding the conduct of Larry M. Atkins, NPN 651982, DOB 7/16/43 (hereinafter "Respondent"), the Commissioner has considered scheduling a formal hearing to determine whether Respondent's conduct as alleged constitutes a basis for imposition of a civil penalty or any other action the Commissioner deems necessary. Respondent's conduct is alleged to be in violation of N.D.C.C. §§ 26.1-26-15 and 26.1-26-42(6) and (10) and N.D. Admin. Code § 45-02-02-14.1.

2. N.D.C.C. § 26.1-26-15 states:

26.1-26-15. License requirement – Character. An applicant for any license under this chapter must be deemed by the commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation.

3. N.D.C.C. § 26.1-26-42 states, in part:

26.1-26-42. License suspension, revocation, or refusal - Grounds. The commissioner may suspend,

revoke, place on probation, or refuse to continue or refuse to issue any license issued under this chapter if, after notice to the licensee and hearing, the commissioner finds as to the licensee any of the following conditions:

...

6. In the conduct of affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown oneself to be incompetent, untrustworthy, or financially irresponsible.

...

10. An improper withholding of, misappropriating of, or converting to one's own use any moneys belonging to policyholders, insurers, beneficiaries, or others received in the course of one's insurance business.

4. N.D. Admin. Code § 45-02-02-14.1 states:

45-02-02-14.1. Client loans to licensed producers and consultants prohibited - Exceptions. A licensed insurance producer or consultant may not solicit or accept a loan from an individual with whom the insurance producer or consultant came into contact in the course of the person's insurance business, or sold an insurance policy to, within the past ten years. This does not prohibit a licensed insurance producer or consultant from accepting loans from financial institutions; immediate family members, which shall mean only a spouse, parents, siblings, and children; or other loans upon the prior written approval of the insurance commissioner.

5. The Commissioner has come into information which alleges that Respondent has knowingly and intentionally engaged in the conduct of deceit and fraud against residents of the State of North Dakota in his actions of accepting money and converting to his own use moneys belonging to several insurance clients.

6. On November 1, 1985, Respondent sold a life insurance policy to Ernest Carter. The policy continued in effect from that time to at least November 1, 2005, and

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Respondent continued to act as Mr. Carter's insurance agent during the course of events described in this order. On March 1, 1996, Respondent accepted approximately \$26,000 from Mr. Carter. After that time, Respondent accepted from Mr. Carter approximately \$20,000 on December 6, 1996; \$20,000 on October 9, 1996; \$8,000 on November 24, 1997; \$26,000 on November 1, 1997; \$11,500 on May 8, 1998; \$9,500 on May 8, 1998; \$31,000 on June 5, 2000; \$9,000 on June 5, 2000; \$40,000 on June 7, 2002; \$5,000 on September 3, 2002; \$10,000 on June 14, 2004; and \$26,000 on October 18, 2007. The Respondent issued promissory notes to Mr. Carter as follows: on July 20, 1995, in the amount of \$10,600 with interest at the rate of 7.75 percent per annum payable annually; on December 7, 1995, in the amount of \$25,000 with interest at the rate of 6.75 percent per annum payable annually; on June 1, 1996, in the amount of \$26,000 with interest at the rate of 7.25 percent per annum; on June 7, 2002, in the amount of \$40,000 with interest at the rate of 8.75 percent per annum payable annually; and on June 18, 2006, in the amount of \$10,000 with interest at the rate of 7.25 percent per annum payable annually.

Respondent applied the money received from Mr. Carter to his own personal use as a loan. Respondent sold insurance to Mr. Carter or came into contact with Mr. Carter in the course of the Respondent's insurance business within the past 10 years. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D.C.C § 26.1-26-42(6) and (10).

7. On or before January 1, 2004, Respondent sold insurance to Patricia A. Merritt. On or about September 2, 2006, Respondent accepted approximately \$25,590

from Ms. Merritt. On September 2, 2006, Respondent issued a promissory note to Ms. Merritt in the amount of \$25,590 with interest at the rate of 8.1 percent per annum payable annually.

Respondent applied the money received from Ms. Merritt to his own personal use as a loan. Respondent had sold insurance to Ms. Merritt or come into contact with her in the course of the conduct of his insurance business within the past 10 years. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D.C.C. § 26.1-26-42(6) and (10).

8. On or before January 1, 2007, Respondent sold an annuity to Gail S. Tillotson. On or about December 31, 2007, Respondent accepted approximately \$37,520 from Ms. Tillotson. On or about December 31, 2007, Respondent issued a promissory note to Ms. Tillotson in the amount of \$37,520 with interest at the rate of 7.4 percent per annum payable annually. Respondent applied the money received from Ms. Tillotson to his own personal use as a loan.

Respondent sold insurance to Ms. Tillotson within the 10 years prior to December 2007. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D.C.C. § 26.1-26-42(6) and (10).

9. On or about May 21, 1991, Respondent sold insurance to Wayne Champ. The insurance policy was in effect at least through March 21, 2005. Respondent accepted the following amounts from Mr. Champ and issued promissory notes to Mr.

Champ as follows: on July 27, 2007, in the amount of \$124,630 with interest at the rate of 7.6 percent per annum payable annually; on July 27, 2007, in the amount of \$68,650 with interest at the rate of 7.6 percent per annum payable annually; on July 21, 2005, in the amount of \$122,260 with interest at the rate of 7.25 percent per annum payable annually; and on April 21, 2005, with interest at the rate of 7.25 percent per annum payable annually.

Respondent applied the money received from Mr. Champ to his own personal use as a loan. Respondent had sold insurance to Mr. Champ or came into contact with him during the course of his insurance business within the 10 years prior to April 2005. Respondent's conduct of soliciting and accepting a loan from an individual with whom the Respondent had come into contact in the course of his insurance business constitutes a violation of N.D. Admin. Code § 45-02-02-14.1 and N.D.C.C. § 26.1-26-42(6) and (10).

10. Respondent's actions constitute violations of N.D.C.C. § 26.1-26-42(6) and (10) and are grounds for revocation of Respondent's insurance agent license.

11. Respondent acknowledges that at the time of signing the Consent to Entry of Order, he was aware of or had been advised of his rights to a hearing in this matter, to consult an attorney, to present argument to the Commissioner, to appeal from any adverse determination after a hearing, and Respondent expressly waives those rights.

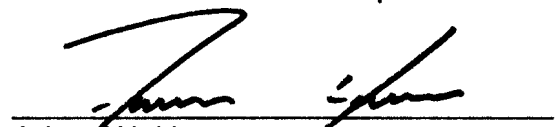
12. Respondent has agreed to informal disposition of this matter, without a hearing, as provided under N.D. Cent. Code § 28-32-22.

13. For purposes of resolving this matter, without further administrative proceedings, Larry M. Atkins and the Commissioner have agreed to enter into the following order.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Respondent's resident insurance agent license is hereby **REVOKED** effective upon the Commissioner's execution of this Order.
2. No administrative fine or other civil penalty is imposed.
- 3.** The use of this Consent Order for competitive purposes by an insurance agent or agency holding a license in the State of North Dakota, or by any company holding a Certificate of Authority, or by anyone on their behalf, may be deemed unfair competition and be grounds for suspension or revocation of said license or authority.

DATED at Bismarck, North Dakota, this 12th day of February, 2009.



Adam W. Hamm
Insurance Commissioner
State of North Dakota

CONSENT TO ENTRY OF ORDER

The undersigned, **Larry M. Atkins**, states that he has read the foregoing Consent Order, that he knows and fully understands its contents and effect; that he has been advised of his right to a hearing in this matter, his right to be represented by legal counsel, his right to present evidence and arguments to the Commissioner, and his right to appeal from an adverse determination after hearing; and that by the signing of this Consent to Entry of Order he waives those rights in their entirety, and consents to entry of this Order by the Commissioner. It is further expressly understood that this Order

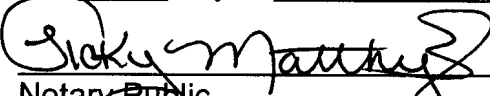
constitutes the entire settlement agreement between the parties hereto, there being no other promises or agreements, either expressed or implied.

DATED this 9th day of Feb, 2009.


Larry M. Atkins

Subscribed and sworn to before me

this 9th day of Feb, 2009.


Notary Public

My commission expires:

